

BILL LOCKYER, Attorney General
of the State of California
JOHN E. DeCURE, State Bar No. 150700
Deputy Attorney General
California Department of Justice
300 So. Spring Street, Suite 1702
Los Angeles, CA 90013
Telephone: (213) 897-8854
Facsimile: (213) 897-1071
Attorneys for Complainant

**BEFORE THE
PHYSICAL THERAPY BOARD OF CALIFORNIA
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA**

In the Matter of the Statement of Issues Against:

Case No. 1D 2003 63407

TIMOTHY EUGENE WILLIAMS
28331 Lunada Ridge Drive
Rancho Palos Verdes, CA 90275

STATEMENT OF ISSUES

Physical Therapy License

Respondent.

Complainant alleges:

PARTIES

1. Steven K. Hartzell (Complainant) brings this Statement of Issues solely in his official capacity as the Executive Officer of the Physical Therapy Board of California, Department of Consumer Affairs.

2. On or about March 12, 2003, the Physical Therapy Board of California, Department of Consumer Affairs (Board) received an application for a Physical Therapy License from Timothy Eugene Williams (Respondent). On or about March 5, 2003, Timothy Eugene Williams certified under penalty of perjury to the truthfulness of all statements, answers, and representations in the application. The Board denied the application on November 24, 2003.

JURISDICTION

3. This Statement of Issues is brought before the Physical Therapy Board of

1 California (Board), Department of Consumer Affairs, under the authority of the following laws.

2 All section references are to the Business and Professions Code unless otherwise indicated.

3 4. Section 2609 of the Code states:

4 The board shall issue, suspend, and revoke licenses and approvals to practice
5 physical therapy as provided in this chapter.

6 5. Section 2660 of the Code states, in pertinent part:

7 The board may, after the conduct of appropriate proceedings under the
8 Administrative Procedure Act, suspend for not more than 12 months, or revoke, or impose
9 probationary conditions upon, or issue subject to terms and conditions any license, certificate, or
10 approval issued under this chapter for any of the following causes:

11 “. . . .

12 (d) Conviction of a crime which substantially relates to the qualifications,
13 functions, or duties of a physical therapist. The record of conviction or a certified
14 copy thereof shall be conclusive evidence of that conviction.

15

16 (f) Habitual intemperance.

17 “. . . .”

18 6. Section 2661 of the Code states:

19 A plea or verdict of guilty or a conviction following a plea of nolo contendere
20 made to a charge of a felony or of any offense which substantially relates to the qualifications,
21 functions, or duties of a physical therapist is deemed to be a conviction within the meaning of
22 this article. The board may order the license suspended or revoked, or may decline to issue a
23 license, when the time for appeal has elapsed, or the judgement of conviction has been affirmed
24 on appeal or when an order granting probation is made suspending the imposition of sentence,
25 irrespective of a subsequent order under Section 1203.4 of the Penal Code allowing that person
26 to withdraw his or her plea of guilty and to enter a plea of not guilty, or setting aside the verdict
27 of guilty, or dismissing the accusation, information, or indictment.

1 7. Section 2661.5 of the Code states:

2 (a) In any order issued in resolution of a disciplinary proceeding before
3 the board, the board may request the administrative law judge to direct any
4 licensee found guilty of unprofessional conduct to pay to the board a sum not to
5 exceed the actual and reasonable costs of the investigation and prosecution of the
6 case.

7 (b) The costs to be assessed shall be fixed by the administrative law judge
8 and shall not in any event be increased by the board. When the board does not
9 adopt a proposed decision and remands the case to an administrative law judge,
10 the administrative law judge shall not increase the amount of the assessed costs
11 specified in the proposed decision.

12 (c) When the payment directed in an order for payment of costs is not
13 made by the licensee, the board may enforce the order of payment by bringing an
14 action in any appropriate court. This right of enforcement shall be in addition to
15 any other rights the board may have as to any licensee directed to pay costs.

16 (d) In any judicial action for the recovery of costs, proof of the board's
17 decision shall be conclusive proof of the validity of the order of payment and the
18 terms for payment.

19 (e) (1) Except as provided in paragraph (2), the board shall not renew
20 or reinstate the license or approval of any person who has failed to pay all
21 of the costs ordered under this section.

22 (2) Notwithstanding paragraph (1), the board may, in its
23 discretion, conditionally renew or reinstate for a maximum of one year the
24 license or approval of any person who demonstrates financial hardship and
25 who enters into a formal agreement with the board to reimburse the board
26 within that one year period for those unpaid costs.

27 (f) All costs recovered under this section shall be deposited in the
28 Physical Therapy Fund as a reimbursement in either the fiscal year in which the

costs are actually recovered or the previous fiscal year, as the board may direct.

FIRST CAUSE FOR DENIAL

(Criminal Convictions Substantially Related to Physical Therapy)

8. Respondent's application is subject to denial under section 2660, subsection (d), of the Code, in that Respondent has been criminally convicted of crimes substantially related to the qualifications, functions, or duties of a physical therapist. The circumstances are as follows:

9. On or about March 23, 1992, Respondent appeared before the Los Angeles County Municipal Court in Case No. 92M01672 and entered a plea of nolo contendere to having violated Vehicle Code section 23152, subsection (b) (unlawful for person with .08 percent or more, by weight, of alcohol in his/her blood to drive a vehicle). This violation, a misdemeanor, occurred on or about February 20, 1992. The Court ordered Respondent to be placed on three years summary probation, with terms and conditions of probation including payment of a \$1,023 fine (or perform community service in lieu of fine), participation in and completion of a first-offender alcohol education and counseling program, and a one-year driving restriction limited to transportation to and from work and the court-ordered alcohol program. Respondent was further ordered not to commit a similar offense during his probation period.

10. On or about February 12, 1994, at about 3:05 a.m., Respondent was observed by a Rancho Palos Verdes Police Department officer to be driving his car at approximately sixty-five to seventy miles per hour in a posted thirty-five mile per hour zone. Respondent's car was also observed to be weaving. Respondent was pulled over and observed to have red and watery eyes and smell of alcohol. Respondent was given a field sobriety test, which he failed. The officer placed Respondent under arrest. Respondent was subsequently given a breath test, the results of which were .12 percent and .12 percent, by weight, of alcohol in his blood. Respondent was later charged in Los Angeles County Municipal Court Case No. 94M01691 with one count of violating Vehicle Code section 23152, subsection (a) (unlawful to drive under influence of alcohol and/or drug), and one count of violating Vehicle Code section 23152, subsection (b) (unlawful for person with .08 percent or more, by weight, of alcohol in

1 his/her blood to drive a vehicle).

2 11. On or about April 7, 1994, Respondent appeared before the Los Angeles
3 County Municipal Court in Case No. 94M01691 and entered a plea of nolo contendere to having
4 violated Vehicle Code section 23152, subsection (b), a misdemeanor. The Court ordered
5 Respondent to be placed on three years summary probation, with terms and conditions of
6 probation including: serving 48 hours in Los Angeles County jail; payment of a \$1,274 fine (or
7 perform community service in lieu of fine); participation in and completion of an eighteen-month
8 alcohol treatment and counseling program; and a one-year driving restriction limited to
9 transportation to and from work and the court-ordered alcohol program.

10 12. On or about July 30, 1996, Respondent appeared before the Los Angeles
11 County Municipal Court in Case No. 6SB03818 and entered a plea of guilty to having violated
12 Penal Code section 148, subsection (a)(1), a misdemeanor. He was originally charged with one
13 count of violating Penal Code section 182, subsection (a)(5) (conspiring to commit act injurious
14 to public health or morals), and one count of violating Penal Code section 148, subsection (a)(1)
15 (resisting a public officer). In acceptance of his plea, the Court ordered Respondent to be placed
16 on two years summary probation, with terms and conditions of probation including payment of a
17 \$910 fine, or performing 182 hours of community service in lieu of the fine.

18 13. On or about August 5, 2001, at about 2:45 a.m., Respondent was observed
19 by a Rancho Palos Verdes Police Department officer to be driving a car bearing expired
20 registration tabs. Respondent was pulled over and observed to have red and watery eyes and
21 smell of alcohol. Respondent was given a field sobriety test, which he failed. Respondent was
22 arrested and subsequently given a breath test, the results of which were .09 percent and .09
23 percent, by weight, of alcohol in his blood. Respondent was later charged in Los Angeles County
24 Municipal Court Case No. 1SB07579 with one count of violating Vehicle Code section 23152,
25 subsection (a) (unlawful to drive under influence of alcohol and/or drug), and one count of
26 violating Vehicle Code section 23152, subsection (b) (unlawful for person with .08 percent or
27 more, by weight, of alcohol in his/her blood to drive a vehicle).

28 14. On or about December 13, 2001, Respondent appeared before the Los

Los Angeles County Municipal Court in Case No. 1SB07579 and entered a plea of nolo contendere to having violated Vehicle Code section 23152, subsection (a), a misdemeanor. The Court ordered Respondent to serve ninety-six hours in Los Angeles County jail, and further ordered that he be placed on three years summary probation, with terms and conditions of probation including: payment of \$1,399 in fines (or perform community service in lieu of fines); payment of restitution fines; participation in and completion of an eighteen-month second-offender alcohol and drug treatment and counseling program; and a one-year driving restriction limited to transportation to and from work and the court-ordered alcohol program.

15. On or about November 4, 2003, Respondent appeared in Los Angeles County Municipal Court in Case No. 3SB05872 and pled guilty to one count of having violated Health and Safety Code section 11550, subsection (a) (use or under influence of controlled substance). The Court ordered that there be a deferred entry of judgment for eighteen months (i.e., that the case be placed in diversion status), and that the following terms and conditions be imposed: Respondent is not to use or possess narcotics or dangerous/restricted drugs or paraphernalia and stay away from places where users congregate; Respondent is not to associate with known drug users, sellers or buyers; obey all laws; and enrollment in and complete a drug education and treatment program and testing.

SECOND CAUSE FOR DENIAL

(Habitual Intemperance)

16. Respondent's application is subject to denial under section 2660, subsection (f), of the Code, in that Respondent has been convicted of crimes evidencing habitual intemperance. The circumstances are as follows:

15. Paragraphs 9, 10, 11, 13, 14 and 15 are incorporated by reference as if set forth in full.

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PRAYER

WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged, and that following the hearing, the Physical Therapy Board of California issue a decision:

1. Denying the application of Timothy Eugene Williams for a Physical Therapy License; and
2. Taking such other and further action as deemed necessary and proper.

DATED: 04/29/2004

Original Signed By:
STEVEN K. HARTZELL
Executive Officer
Physical Therapy Board of California
Department of Consumer Affairs
State of California
Complainant

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Williams Statement of Issues.wpd